

CRIMINAL RESPONSIBILITY FOR VIOLATION OF THE PROCEDURE FOR ENTERING AND LEAVING THE TEMPORARILY OCCUPIED TERRITORY IN UKRAINE

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Criminalization of the violation of the procedure for entering and leaving the temporarily occupied territory of Ukraine corresponds to the main directions of the state's social policy and the state of public opinion in the rest of Ukraine on this issue. Evidence of this is not only the inclusion of Article 332-1 in the Criminal Code of Ukraine, but also the adoption of special laws and other by-laws [2].

The temporarily occupied territory of Ukraine is physically and normatively divided into two different parts.

Under Article 3 of the Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine", for the purposes of this Law, the temporarily occupied territory is determined:

1) the land territory of the Autonomous Republic of Crimea and the city of Sevastopol, the internal waters of Ukraine of these territories;

2) the internal sea waters and the territorial sea of Ukraine around the Crimean peninsula, the territory of the exclusive (sea) economic zone of Ukraine along the coast of the Crimean peninsula and the continental shelf of Ukraine adjacent to the coast, which are subject to the jurisdiction of the state authorities of Ukraine in accordance with international law, the Constitution and the laws of Ukraine;

3) the subsoil below the territories specified in clauses 1 and 2 of this part, and the airspace above these territories [3].

Under Paragraph 1 of the Resolution of the Supreme Council of Ukraine "On the recognition of certain regions, cities, towns and villages of Donetsk and Luhansk Regions by temporarily occupied territories", the Supreme Council of Ukraine decides to recognize certain regions, cities, towns and villages of Donetsk and Luhansk Regions as temporarily occupied territories, under the Law of Ukraine "On Special Procedure of Local Self-Government in Some Districts of Donetsk and Lugansk Oblasts", a special local government procedure is in place, until the withdrawal of all illegal armed groups, Russian occupation troops, their military equipment, as well as militants and mercenaries from the territory of Ukraine, and the restoration of full control over Ukraine along the state border of Ukraine [4].

Under Article 332-1 of the Criminal Code of Ukraine, violation of the procedure for entering the temporarily occupied territory of Ukraine and leaving it in order to harm the interests of the state is punishable by restriction of freedom for up to three years or imprisonment for the same period.

Entering and leaving the temporarily occupied territory of Ukraine are actions involving the guilty person crossing the borders of the temporarily occupied territory – both by wheel transport (entry and exit in the literal sense of these words), and by water or air, as well as on foot.

The use in Part 1 of Article 332-1 of the Criminal Code of Ukraine of the union “and” does not mean that for the existence of the corpus delict it is necessary that one person commit two actions - entry and exit. According to Article 332-1, it is necessary to qualify the actions of a person who, in violation of the established procedure, entered the temporary territory, but who either did not leave it or left without violating the established procedure. The actions of a person also constitute the composition of this crime, did not enter the temporarily occupied territory (was there before the occupation), but which left it in violation of the established procedure, for example, bypassing control points.

The crime is considered finished at the time of illegal crossing of borders of the occupied territories. The stages of preparation (for example, searching for accomplices, exploring the terrain, etc.) and attempted assaults (for example, in the case of apprehension of a person, trying to enter a temporarily occupied territory with the help of a fake special permit) are possible [1].

Consequently, the introduction of amendments to the Criminal Code of Ukraine and the adoption of a number of legal acts regarding the legal regime of entry, stay and departure from the temporarily occupied territories is evidence that the state’s legislative apparatus is able to respond in a timely manner to changes in its social and political life and create effective mechanisms regulation of relations arising from this.

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